UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/452,285	11/30/1999	BRIAN LO BUE	CISCO-1515	1104

49715 7590 11/28/2007	EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/452,285	BUE ET AL.
	Examiner	Art Unit
	Khanh Dinh	2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 September 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,9-24,26,30-32,52,63-85 and 87-91* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4, 9-24, 26, 30-32, 52, 63-85 and 87-91* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 9/10/2007 has been entered. Claims 1-4, 9-24,

26, 30-32, 52, 63-85 and 87-91 are presented for examination.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or

described as set forth in section 102 of this title, if the differences between the subject matter

sought to be patented and the prior art are such that the subject matter as a whole would have

been obvious at the time the invention was made to a person having ordinary skill in the art to

which said subject matter pertains. Patentability shall not be negatived by the manner in which

the invention was made.

This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)

and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3.   Claims 1-4, 9-23, 26, 30-31, 52, 63-85 and 87-91 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Dixon et al., (hereafter Dixon) US pat. No. *6,058,424* in view of

Lamarque et al., (hereafter Lamarque), U.S. pat. No.6,690,651.

As to claim 1, Dixon discloses a backup server (new application server for taking over data as

the original application server fails) for enabling a data communications network to recover from

a failure of said local server (original application server), the data communications network

including a local server and a network access server NAS (111 fig.1), the NAS capable of

coupling a request placed from a user (client 101 fig.1) to the data communication network and

providing a network connection to the local server, the NAS including a memory, said local

server comprising:

        an information packet receiver responsive to the local server failure, the information

packet receiver receiving from the memory associated with the NAS an information packet

associated with a user request placed by the user via the NAS, wherein the information packet

containing call information for maintaining connection of the ongoing call if the local server fails

(taking over session as the original server fails, see abstract, figs.1, 5, col.3 lines 11-44 and col.7

line 53 to col.8 line 51 and col.9 line 46 to col.10 line 17);

        the NAS capable of coupling a call placed from the call-in user to the data

communications network and providing a network connection the local server (the control server

sends a callback to the original application server to indicate that the session takeover has started,

see col.10 lines 4-36);

a parser for reconstructing the call information data from said information data from the

information data packet, whereby the server maintains the user request to the communications

network (reconstructing information regarding all necessary session resources, see col.10 lines

18-36).

Dixon does not specifically disclose that user placing a request by calling in. However,

Lamarque discloses a user placing a request by calling in [using a user (122 fig.1) to initiate a

call at a terminal to communicate with the servers and networks, see fig.1, col.3 line 22 to col.4

line 24]. It would have been obvious to one of ordinary skill in the art at the time the invention

was made to utilize Lamarque's teachings into the computer system of Dixon to request data

information through a network because it would have enabled user to bypass long distance

carriers and their permanent usage rates and to run voice traffic over the Internet (see

Lamarque's col.1 lines 24-67).

As to claims 2 and 3, Dixon discloses the call information including server attribute having an

attribute/value pair that can be parsed into a plurality of separate data entries and a plurality of

aggregated data elements from a call attribute table (see col.10 line 42 to col.11 line 54).

As to claim 4, Dixon discloses plurality of aggregated data elements of said information packet

are separated by said parser for reconstructing said plurality of SSA information data from said

information packet table (see col.8 lines 10-63 and col.10 line 42 to col.11 line 54).

As to claims 9, Dixon discloses a local server for enabling a data communications network, the

system comprising:

an encoder for generating an information packet associated with the request, information

packet containing request information for maintaining connection of the request fails (taking

over session as the original server fails, see abstract, figs.1, 5, col.3 lines 11-44 and col.7 line 53

to col.8 line 51 and col.9 line 46 to col.10 line 17);

the NAS capable of coupling a call placed from the call-in user to the data

communications network and providing a network connection the local server (the control server

sends a callback to the original application server to indicate that the session takeover has started,

see col.10 lines 4-36);

the NAS capable of coupling a call placed from the call-in user to the data

communications network and providing a network connection the local server (the control server

sends a callback to the original application server to indicate that the session takeover has started,

see col.10 lines 4-36);

a sender for transmitting the information packet from the encoder to the memory, the

information packet being stored in the memory to be available to the backup server if the local

server fails (reconstructing information regarding all necessary session resources, see col.10 lines

18-36).

Dixon does not specifically disclose that user placing a request by calling in. However,

Lamarque discloses a user placing a request by calling in (using a user (122 fig.1) to initiate a

call at a terminal to communicate with the servers and networks, see fig.1, col.3 line 22 to col.4

line 24). It would have been obvious to one of ordinary skill in the art at the time the invention

was made to utilize Lamarque's teachings into the computer system of Dixon to request data

information through a network because it would have enabled user to bypass long distance

carriers and their permanent usage rates and to run voice traffic over the Internet (see

Lamarque's col.1 lines 24-67).

Claims 10-12 are rejected for the same reasons set forth in claims 2-4 respectively.

As to claims 13 and 17, Dixon discloses a local server for maintaining a call placed by a user to a

data communications network, the system comprising:

a memory (inherent of a server) associated with the NAS, the NAS capable of coupling a

call placed from the call-in user to the data communications network and providing a network

connection the local server (the control server sends a callback to the original application server

to indicate that the session takeover has started, see col.10 lines 4-36);

an encoder for generating an information packet associated with the request, information

packet containing request information for maintaining connection of the request and a sender for

transmitting the information packet from the encoder to the memory, the information packet

being stored in the memory to be available to the backup server if the local server fails (taking

over session as the original server fails, see abstract, figs.1, 5, col.3 lines 11-44 and col.7 line 53

to col.8 line 51 and col.9 line 46 to col.10 line 17);

a request coupler associated with the NAS for coupling the call to the local server if the

local server does not fail, and for coupling to the backup server if the local server fails and a

failure detector for determining if a failure of the local server has occurred (see col.9 line 46 to col.10 line 17);

an information packet requester (client's requests) for requesting the information packet from the memory to the backup server if the local server fails and a parser for reconstructing the information packet and serve the request without disconnecting the user from the network (reconstructing information regarding all necessary session resources, see col.10 lines 18-36).

Dixon does not specifically disclose that user placing a request by calling in. However, Lamarque discloses a user placing a request by calling in [using a user (122 fig.1) to initiate a call at a terminal to communicate with the servers and networks, see fig.1, col.3 line 22 to col.4 line 24]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Lamarque's teachings into the computer system of Dixon to request data information through a network because it would have enabled user to bypass long distance carriers and their permanent usage rates and to run voice traffic over the Internet (see Lamarque's col.1 lines 24-67).

Claims 14-16 are rejected for the same reasons set forth in claims 2-4 respectively.

Claims 18 and 19 are rejected for the same reasons set forth in claims 2 and 3 respectively.

Claim 20 is rejected for the same reasons set forth in claim 13. As to the added limitations, Dixon discloses a backup server connected to the network to service the call (see col.7 line 53 to col.8 line 63 and col.10 lines 4-41).

Claims 21-23 are rejected for the same reasons set forth in claims 2-4 respectively.

Claim 26 is rejected for the same reasons set forth in claim 2.

As to claim 30, Dixon discloses a server backup system for maintaining a request placed by a

user to a network, said system comprising:

a first server connected to the network for servicing the call and a second network server

connected to the network for servicing the call if t he first server fails and a network access

server NAS for providing a network connection to a server, said NAS coupling a call to the first

server if the first server does not fail and coupling the call to the second server if the first server

fails (taking over session as the original server fails, see abstract, figs.1, 5, col.3 lines 11-44 and

col.7 line 53 to col.8 line 51);

- an encoder for generating an information packet associated with the request placed by a

user via the NAS, information packet containing request information for maintaining connection

of the request if the local server fails (see col.9 line 46 to col.10 line 17);

a sender for transmitting the information packet from said encoder to the memory

associated with the NAS, the memory storing the information packet (see col.9 line 46 to col.10

line 17).

an information packet requester (client's requests) for requesting the information packet

from the memory to the backup server if the local server fails and a parser for reconstructing the

information packet (reconstructing information regarding all necessary session resources, see

col.10 lines 18-36).

Dixon does not specifically disclose that user placing a request by calling in. However,

Lamarque discloses a user placing a request by calling in (using a user (122 fig.1) to initiate a

call at a terminal to communicate with the servers and networks, see fig.1, col.3 line 22 to col.4

line 24). It would have been obvious to one of ordinary skill in the art at the time the invention

was made to utilize Lamarque's teachings into the computer system of Dixon to request data

information through a network because it would have enabled user to bypass long distance

carriers and their permanent usage rates and to run voice traffic over the Internet (see

Lamarque's col.1 lines 24-67).

As to claim 31, Dixon discloses a data caller responsive to the failure detector for detecting the

failure of the second server (see col.7 line 53 to col.8 line 51 and col.9 line 46 to col.10 line 17).

As to claim 52, Dixon further discloses said sender transmits the information packet in response

to a request from the backup server (see fig.5, col.7 line 53 to col.8 line 51 and col.9 line 46 to

col.10 line 41).

Claims 63 and 64 are rejected for the same reasons set forth in claims 13 and 2 respectively.

As to claims 65, Dixon further discloses petitioning to the NAS for the information packet after

the NAS requests the request information and sending the request information to the NAS after

completing reconstructing (see fig.5, col.7 line 53 to col.8 line 51 and col.9 line 46 to col.10 line

41).

Claim 66 is rejected for the same reasons set forth in claim 9.

As to claims 67 and 75, Dixon further discloses encoding a plurality of aggregated data elements

from a call attribute table representing the SSA data and delimiting information packet into an

attribute data string and a value data string (see fig.5, col.7 line 53 to col.8 line 51 and col.9 line

.46 to col.10 line 67).

Claims 68-74 are rejected for the same reasons set forth in claims 13, 17, 2, 1, 2, 65 and 9

respectively.

Claims 76-79 are rejected for the same reasons set forth in claims 17, 2, 1 and 2 respectively.

Claims 80-84 are rejected for the same reasons set forth in claims 65, 9, 2, 17 and 2 respectively.

As to claims 85, 87-91, Dixon further discloses at least one of: Dialed Number Information

Service, call type, calling Line Identification and service accounting information (see col.3 line

46 to col.4 line 47 and col.7 line 53 to col.8 line 63).

4.   Claims 24 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon

and Lamarque as applied to claims 20-23 and 30-31 above, and further in view of Cisco System

(hereafter Cisco), Network Wide Solution Manages Providers to Maximize Revenue from Dial

VPN, April 5, 1999.

Neither Dixon nor Lamarque discloses using a Resource Pool Manager Server. However, Cisco

discloses a Resource Pool Manager Server (see page 1). It would have been obvious to one of

the ordinary skill in the art at the time the invention was made to implement a Resource Pool

Manager Server in the computer system of Dixon to enhance the functionality of access servers

because it would have provided Internet Service Providers and Telecommunications carriers with

a robust solution for managing concurrent dial network services across single or multiple

network access servers.

Response to Arguments

5.   Applicant's arguments filed 9/10/2007 have been fully considered but they are not

persuasive.

- Applicant asserts that the cited reference does not disclose a memory associated

  with the NAS capable of coupling a call placed from the call-in user to the data

  communications network and providing a network connection the local server.

Examiner respectfully disagrees. Dixon discloses the Applicant's claimed invention by

showing a memory (allocating a memory space for the new application server) associated with a

NAS capable of coupling a call placed from the call-in user to the data communications network

and providing a network connection the local server (implementing the control server for

sending a callback to the original application server to indicate that the session takeover has

started, see col.10 lines 4-36) as rejected above.

- Applicant further asserts that the references fail to provide motivation to combine the references.

In response to applicant's argument that there is failure or no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have enabled user to bypass long distance carriers and their permanent usage rates and to run voice traffic over the Internet (see Lamarque's col.1 lines 24-67) as rejected above.

As a result, cited prior art does disclose a server backup system for maintaining a request placed by a user to a network, as broadly claimed by the Applicants. Applicants clearly have still failed to identify specific claim limitations that would define a clearly patentable distinction over prior art.
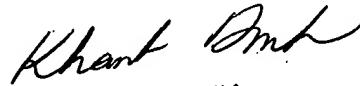
Conclusion

6.   Claims 1-4, 9-24, 26, 30-32, 52, 63-85 and 87-91 are rejected.

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (571) 272-3936. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on (571) 272-3939. The fax phone number for this group is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:
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